

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

RE: DAVID ST. AMOUR

**BK No: 12-10185
Chapter 13**

**MOTION AND ACCOMPANYING MEMORANDUM OF LAW TO LIFT THE
AUTOMATIC STAY OF 11 USC§ 362 (d)(1)**

Now comes the Debtor in the above entitled matter and requests that the Automatic Stay be lifted so as to allow the Debtor to proceed in the Rhode Island Superior Court against Bank of America and other entities for damages resulting from the initiation of pre bankruptcy foreclosure proceedings against the Debtor's residence. The Debtor states the following in support of said motion:

1. Debtor is a joint owner of property located at 8 E Quail Run, Charlestown, RI 02813;
2. Prior to the filing of this Chapter 13 proceeding, Bank of America commenced a foreclosure proceeding against the above referenced property;
3. The Debtor believes that the pre bankruptcy foreclosure attempts were unlawful and as a result thereof Debtor sustained damages;
4. On January 24, 2012, the Debtor filed a chapter 13 proceeding to halt the foreclosure proceeding commenced by Bank of America;
5. The Debtor indicated on Schedule D of his bankruptcy petition that he was disputing the validity of any claim of Bank of America. On April 6, 2012, this Court entered an Order Confirming Plan which provided for future adjudication regarding any amounts alleged to be due and owing Bank of America on its mortgage claim;
6. At the present time approximately \$5100.00 must be paid to the Chapter 13 Standing Trustee to satisfy all non mortgage related claims. The Debtor is in the process of making this lump sum payment to the Chapter 13 Standing Trustee;
7. The Debtor and his spouse have several non core claims against Bank of America and other entities resulting from the commencement of the pre bankruptcy foreclosure referenced above. These claims involve state and non bankruptcy law;
8. The state court system is the proper forum to resolve these issues;
9. Bank of America has filed a proof of claim which has been objected to by the Debtor. The Debtor alleges that the claim filed by Bank of America was untimely;

10. Since mortgage obligations are not discharged in Chapter 13 proceedings, the Debtor avers that just cause exists for lifting the automatic stay under 11 U.S.C. §362 (d)(1);

11. The granting of the instant request will not be prejudicial to any party in interest and will not adversely affect the administration of this chapter 13 proceeding.

WHEREFORE, Debtor prays that his Motion to Lift the Automatic Stay be granted so that he can proceed in the State Court system with any action against Bank of America and other entities to determine the extent and validity of any mortgage lien on his residence and to seek damages and all other relief resulting from the pre bankruptcy foreclosure proceeding on his residence located at 8 E Quail Run, Charlestown, RI 02813.

David St. Amour
By his Attorney,

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CERTIFICATION OF SERVICE

I hereby certify that on August 23, 2012, I electronically filed a Motion and Accompanying Memorandum to Lift the Automatic Stay with the Clerk of the Bankruptcy Court for the District of Rhode Island using the CM/ECF System. The following participants have received notice electronically:

Office of the U.S. Trustee, John Boyajian, Esq. and Patrick John McDonald IV, Esq.; and I hereby certify that I have mailed by United States Postal Service, postage pre-paid and certified mail, the document and a copy of the Notice of Electronic Filing to the following non CM/ECF participants:

Bank of America, N.A. successor by merger
to BAC Home Loan Servicing LP fka
Countrywide Home Loans Servicing
c/o Homeward Residential, Inc. f/k/a
AHMSI
Po Box 631730
Irving, TX 75063

Bendett & McHugh, P.C.
270 Farmington Avenue
Suite 151
Farmington CT 06032

Charlotte County Tax Collector
Offices County Administration
18500 Murdock Circle
Port Charlotte FL 33948

Diane St. Amour
8 E Quail Run
Charlestown RI 02813

Discover
Customer Service
PO Box 30943
Salt Lake City UT 84130

Flager County Tax Collector
PO Box 846
Bunnell FL 32110

Sallie Mae
PO Box 9500
Wilkes Barre PA 18773-9500

/s/Maria J. Ferreira